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9 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 800-2016-021819

13 **ALI ALEXANDER TOWFIGH, M.D.**
14 **11301 Wilshire Blvd.**
Los Angeles, CA 90073
15 **Physician's and Surgeon's Certificate**
No. A 83924

DEFAULT DECISION
AND ORDER

[Gov. Code, §11520]

16 Respondent.
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19 **FINDINGS OF FACT**

20 1. On or about March 26, 2019, Complainant Kimberly Kirchmeyer, in her official
21 capacity as the Executive Director of the Medical Board of California, Department of Consumer
22 Affairs, filed Accusation No. 800-2016-021819 against ALI ALEXANDER TOWFIGH, M.D.
23 (Respondent) before the Medical Board of California.

24 2. On or about July 9, 2003, the Medical Board of California (Board) issued Physician's
25 and Surgeon's Certificate No. A 83924 to Respondent. The Physician's and Surgeon's Certificate
26 was in full force and effect at all times relevant to the charges brought herein and expired on
27 February 28, 2019, and has not been renewed. A true and correct copy of a Certificate of
28 Licensure for Respondent is attached hereto as Exhibit A and is incorporated by reference.

1 3. Business and Professions Code section 118 states, in pertinent part:

2 “(b) The suspension, expiration, or forfeiture by operation of law of a license issued by a
3 board in the department, or its suspension, forfeiture, or cancellation by order of the board or by
4 order of a court of law, or its surrender without the written consent of the board, shall not, during
5 any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its
6 authority to institute or continue a disciplinary proceeding against the licensee upon any ground
7 provided by law or to enter an order suspending or revoking the license or otherwise taking
8 disciplinary action against the licensee on any such ground.”

9 4. On or about March 26, 2019, Kristy Voong, an employee of the Complainant
10 Agency, served by Certified Mail a copy of the Accusation No. 800-2016-021819, Statement to
11 Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5,
12 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and is 11301
13 Wilshire Blvd., Los Angeles, California 90073. On or about May 29, 2019, Andrea Geremia, an
14 employee of the Complainant Agency, served by Certified Mail two additional copies of the
15 Accusation No. 800-2016-021819, Statement to Respondent, Notice of Defense, Request for
16 Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 each to additional
17 addresses for Respondent, which were and are 2133 Holly Drive, Los Angeles, California 90068
18 and P.O. Box 491863, Los Angeles, California, 90049. A copy of the Accusation, the related
19 documents, and Declarations of Service are attached as Exhibit B, and are incorporated herein by
20 reference.

21 5. Service of the Accusation was effective as a matter of law under the provisions of
22 Government Code section 11505, subdivision (c).

23 6. On or about May 21, 2019, June 11, 2019, and June 20, 2019, the aforementioned
24 documents were returned by the U.S. Postal Service marked “Return to Sender – Not Deliverable
25 As Addressed”, “Unclaimed”, and “Attempted - Not Known.” Copies of the envelopes returned
26 by the post office are attached as Exhibit C, and is incorporated herein by reference.

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1 7. On or about April 15, 2019, a Courtesy Notice of Default was sent by U.S. Mail to
2 Respondent's address of record with the Board. A true and correct copy of said Courtesy Notice
3 of Default is attached hereto as Exhibit D, and is incorporated herein by reference.

4 8. Government Code section 11506 states, in pertinent part:

5 “(c) The respondent shall be entitled to a hearing on the merits if the respondent files a
6 notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation
7 not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's
8 right to a hearing, but the agency in its discretion may nevertheless grant a hearing.”

9 9. Respondent failed to file a Notice of Defense within 15 days after service upon him
10 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
11 800-2016-021819.

12 10. California Government Code section 11520 states, in pertinent part:

13 “(a) If the respondent either fails to file a notice of defense or to appear at the hearing, the
14 agency may take action based upon the respondent's express admissions or upon other evidence
15 and affidavits may be used as evidence without any notice to respondent.”

16 11. Pursuant to its authority under Government Code section 11520, the Board finds
17 Respondent is in default. The Board will take action without further hearing and, based on
18 Respondent's express admissions by way of default and the evidence before it, contained in
19 exhibits A, B and C, finds that the allegations in Accusation No. 800-2016-021819 are true.

20 12. The Declaration of Deputy Attorney General Jonathan Nguyen attesting to the
21 foregoing facts is attached hereto as Exhibit E and is incorporated herein by reference.

22 **DETERMINATION OF ISSUES**

23 1. Based on the foregoing Findings of Fact, Respondent ALI ALEXANDER
24 TOWFIGH, M.D. has subjected his Physician's and Surgeon's Certificate No. A 83924 to
25 discipline.

26 2. The agency has jurisdiction to adjudicate this case by default.

27 3. Pursuant to its authority under California Government Code section 11520, and based
28 on the evidence before it, the Board hereby finds that the charges and allegations contained in

1 Accusation No. 800-2016-021819, and the Findings of Fact contained in paragraphs 1 through 9,
2 above, and each of them separately and severally, are true. A true and correct copy of Accusation
3 No. 800-2016-021819 and the related documents and Declarations of Service are attached as
4 Exhibit B.

5 4. The Medical Board of California is authorized to revoke Respondent's Physician's
6 and Surgeon's Certificate license based upon the following violations alleged in the Accusation:

7 a. Gross Negligence: Respondent committed gross negligence by prescribing
8 large amounts of controlled substances to several individuals without any apparent justification
9 pursuant to section 2234, subdivision (b) (See Exhibits F, G, H, J, K and M attached hereto and
10 incorporated herein);

11 b. Repeated Negligent Acts: Respondent committed repeated negligent acts in
12 that he prescribed large amounts of controlled substances to several individuals without any
13 apparent medical justification over a period of multiple years pursuant to section 2234,
14 subdivision (c) (See Exhibits F, G, H, J, K and M attached hereto and incorporated herein);

15 c. Prescribing Controlled Substances Without Medical Indication: Respondent
16 prescribed controlled substances without medical indication and to individuals who were not his
17 patients pursuant to Health and Safety Code section 11154 (See Exhibits F, G, H, J, K and M
18 attached hereto and incorporated herein);

19 d. Obtaining Controlled Substances by Fraud: Respondent obtained controlled
20 substances by fraud and deceit and made false statements in prescriptions for controlled
21 substances pursuant to Health and Safety Code section 11173, subdivision (a)(1) (See Exhibits F,
22 G, H, J, K and M attached hereto and incorporated herein);

23 e. Unprofessional conduct - Dishonest Acts: Respondent obtained controlled
24 substances for individuals who were not his patients and through dishonest means pursuant to
25 section 2234, subdivision (e) (See Exhibits F, G, H, I, J, K and M attached hereto and
26 incorporated herein);

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1 f. Failure to Maintain Adequate Records: Respondent failed to maintain any
2 medical records supporting his prescribing activities to Patient #1, Patient #2, Patient #3, and
3 Patient #4 pursuant to section 2266 (See Exhibit I attached hereto and incorporated herein);

4 **ORDER**


5 IT IS SO ORDERED that Physician's and Surgeon's Certificate No. A 83924, heretofore
6 issued to Respondent ALI ALEXANDER TOWFIGH, M.D., is revoked.

7 If Respondent ever files an application for relicensure or reinstatement in the State of
8 California, the Board shall treat it as a petition for reinstatement of a revoked license.
9 Respondent must comply with all laws, regulations, and procedures for reinstatement of a
10 revoked license in effect at the time the petition for reinstatement is filed.

11 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
12 written motion requesting that the Decision be vacated and stating the grounds relied on within
13 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
14 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

15 This Decision shall become effective on September 27, 2019 at 5:00 p.m.

16 It is so ORDERED August 28, 2019

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19 _____
20 KIMBERLY KIRCHMEYER
21 EXECUTIVE DIRECTOR
22 FOR THE MEDICAL BOARD OF
23 CALIFORNIA
24 DEPARTMENT OF CONSUMER AFFAIRS
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7 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO March 26 20 19
BY K. Wong ANALYST

8
9 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12
13 In the Matter of the Accusation Against:

Case No. 800-2016-021819

14 Ali Alexander Towfigh, M.D.
11301 Wilshire Blvd.
15 Los Angeles, CA 90073

A C C U S A T I O N

16 Physician's and Surgeon's Certificate
No. A 83924,

17
18 Respondent.

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21 Complainant alleges:

22 **PARTIES**

23 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official
24 capacity as the Executive Director of the Medical Board of California, Department of Consumer
25 Affairs (Board).

26 2. On or about July 9, 2003, the Medical Board issued Physician's and Surgeon's
27 Certificate Number A 83924 to Ali Alexander Towfigh, M.D. (Respondent). The Physician's and
28

1 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
2 herein and expired on February 28, 2019, and has not been renewed.

3 JURISDICTION

4 3. This Accusation is brought before the Board, under the authority of the following
5 laws. All section references are to the Business and Professions Code unless otherwise indicated.

6 4. Section 2227 of the Code provides that a licensee who is found guilty under the
7 Medical Practice Act may have his or her license revoked, suspended for a period not to exceed
8 one year, placed on probation and required to pay the costs of probation monitoring, or such other
9 action taken in relation to discipline as the Board deems proper.

10 5. Section 2234 of the Code, states:

11 "The board shall take action against any licensee who is charged with unprofessional
12 conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not
13 limited to, the following:

14 "(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the
15 violation of, or conspiring to violate any provision of this chapter.

16 "(b) Gross negligence.

17 "(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or
18 omissions. An initial negligent act or omission followed by a separate and distinct departure from
19 the applicable standard of care shall constitute repeated negligent acts.

20 "(1) An initial negligent diagnosis followed by an act or omission medically appropriate for
21 that negligent diagnosis of the patient shall constitute a single negligent act.

22 "(2) When the standard of care requires a change in the diagnosis, act, or omission that
23 constitutes the negligent act described in paragraph (1), including, but not limited to, a
24 reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the
25 applicable standard of care, each departure constitutes a separate and distinct breach of the
26 standard of care.

27 "(d) Incompetence.

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1 “(e) The commission of any act involving dishonesty or corruption which is substantially
2 related to the qualifications, functions, or duties of a physician and surgeon.

3 “(f) Any action or conduct which would have warranted the denial of a certificate.

4 “(g) The practice of medicine from this state into another state or country without meeting
5 the legal requirements of that state or country for the practice of medicine. Section 2314 shall not
6 apply to this subdivision. This subdivision shall become operative upon the implementation of the
7 proposed registration program described in Section 2052.5.

8 “(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and
9 participate in an interview by the board. This subdivision shall only apply to a certificate holder
10 who is the subject of an investigation by the board.”

11 6. Section 2238 of the Code states:

12 “A violation of any federal statute or federal regulation or any of the statutes or regulations
13 of this state regulating dangerous drugs or controlled substances constitutes unprofessional
14 conduct.”

15 7. Section 2242 of the Code states:

16 “(a) Prescribing, dispensing, or furnishing dangerous drugs as defined in Section 4022
17 without an appropriate prior examination and a medical indication, constitutes unprofessional
18 conduct.

19 “(b) No licensee shall be found to have committed unprofessional conduct within the
20 meaning of this section if, at the time the drugs were prescribed, dispensed, or furnished, any of
21 the following applies:

22 “(1) The licensee was a designated physician and surgeon or podiatrist serving in the
23 absence of the patient’s physician and surgeon or podiatrist, as the case may be, and if the drugs
24 were prescribed, dispensed, or furnished only as necessary to maintain the patient until the return
25 of his or her practitioner, but in any case no longer than 72 hours.

26 “(2) The licensee transmitted the order for the drugs to a registered nurse or to a licensed
27 vocational nurse in an inpatient facility, and if both of the following conditions exist:

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1. “(A) The practitioner had consulted with the registered nurse or licensed vocational nurse
2 who had reviewed the patient’s records.

3 “(B) The practitioner was designated as the practitioner to serve in the absence of the
4 patient’s physician and surgeon or podiatrist, as the case may be.

5 “(3) The licensee was a designated practitioner serving in the absence of the patient’s
6 physician and surgeon or podiatrist, as the case may be, and was in possession of or had utilized
7 the patient’s records and ordered the renewal of a medically indicated prescription for an amount
8 not exceeding the original prescription in strength or amount or for more than one refill.

9 “(4) The licensee was acting in accordance with Section 120582 of the Health and Safety
10 Code.”

11 8. Section 2266 of the Code states: “The failure of a physician and surgeon to maintain
12 adequate and accurate records relating to the provision of services to their patients constitutes
13 unprofessional conduct.”

14 9. Health and Safety Code Section 11154 states, in pertinent part, that no person shall
15 knowingly prescribe, administer, dispense or furnish a controlled substance to or for any person
16 which is not under his care or treatment for a pathology or condition other than addiction to a
17 controlled substance.

18 10. Health and Safety Code section 11173 states, in pertinent part, that no person shall
19 obtain or attempt to obtain controlled substances by fraud, deceit or misrepresentation or by the
20 concealment of a material fact. No person shall make a false statement in any prescription or
21 order required by this division.

22 11. The following controlled substances were prescribed by Respondent to several of the
23 individuals mentioned below: Hydrocodone Bitartrate, (generic is Vicodin), is used for pain and
24 is highly addictive; it contains an opioid. Oxycodone is used to treat moderate to severe pain and
25 is very addictive. Acetaminophen codeine phosphate, an opioid, is used to treat mild to severe
26 pain. Testosterone Cypionate is a steroid used to treat low testosterone levels.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Gross Negligence)**

3 12. Respondent is subject to disciplinary action under section 2234, subdivision (b), in
4 that he was grossly negligent by prescribing large amounts of controlled substances to several
5 individuals without any apparent justification. The circumstances are as follows:

6 A. Respondent prescribed medications to patient #1 starting in March 2010. From
7 October 2013 to February 2014, he prescribed a large amount of opioids. These prescriptions
8 represent a Morphine Equivalent monthly dosage of 8,040 in October 2013 and November 2013.
9 Doses which exceed 3600 Morphine Equivalent should only be used if the patient has cancer
10 pain, and requires an assessment of addiction and mental health issues, and ongoing monitoring
11 of possible misuse, overuse or diversion. However, there are no medical records to substantiate
12 these prescriptions. Accordingly, Respondent's prescriptions represent an extreme departure
13 from the standard of care.

14 B. From October 2014 through May 2016, the prescriptions to patient #1 included a
15 large amount of testosterone cypionate, which has a medical indication for the treatment of
16 hypogonadism. Prescriptions for testosterone are approved to restore testosterone levels to
17 normal, but these dosages are far in excess. There are no medical records to substantiate this
18 diagnosis or prescriptions. Accordingly, each of Respondent's prescriptions for testosterone
19 represents an extreme departure from the standard of care.

20 C. Respondent prescribed medications to patient #2 starting in March 2007. During the
21 period from January 2014 to June 2016 the prescriptions included a large amount of opioids. In
22 July, September, and December 2015, Respondent prescribed him 4800 Morphine Equivalents.
23 In order to justify that amount, the records should show cancer pain, however, there are no
24 records to justify these prescriptions. Accordingly, Respondent's prescriptions represent an
25 extreme departure from the standard of care.

26 D. A Board investigator obtained video footage from a CVS pharmacy. There are
27 several days where Respondent is seen at a CVS pharmacy picking up medications. On June 28,
28 2016, he is seen at CVS picking up a prescription for patient #2.

1 E. Respondent prescribed medications to patient #3 starting in November 2014. During
2 the period from November 2014 through July 2016, he prescribed a large amount of opioids.
3 There are no medical records that include a history and physical which document a report of
4 severe pain and an assessment of that pain, prior to the time in November 2014 when Respondent
5 began prescribing opioids to patient #3. Accordingly, Respondent's prescriptions represent an
6 extreme departure from the standard of care.

7 F. On the following days, Respondent was seen picking up prescriptions at a CVS
8 pharmacy for patient #3: July 12, July 21, August 5, August 13, August 26, September 4, and
9 September 19, 2016. He was picking up prescription numbers 1315073, 1330746 and 1330745.

10 G. Respondent prescribed medications to patient #4 starting in June 2013. During the
11 period June 2013 through January 2014, he prescribed a large amount of opioids. Specifically, in
12 December 2013, Respondent prescribed 6480 Morphine equivalents, but there appears to be no
13 documentation regarding cancer pain. The prescribing by Respondent of large amounts of
14 opioids without any documentation in the patient's medical record represents an extreme
15 departure from the standard of care.

16 H. In addition, although Respondent was a physician at the VA, there are no records
17 from the VA indicating patient #2, patient #3 or patient #4 were ever patients there.

18 I. There are no medical records for any of these individuals. There is no evidence of an
19 appropriate medical examination performed on any of these individuals.

20 21 **SECOND CAUSE FOR DISCIPLINE**

22 **(Repeated Negligent Acts)**

23 13. Respondent is subject to disciplinary action under section 2234, subdivision (c), in
24 that he prescribed large amounts of controlled substances to several individuals without any
25 apparent medical justification. The circumstances are as follows:

26 A. The facts and circumstances as alleged in paragraph 12, A-I, are incorporated here as if
27 fully set forth herein.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Prescribing Controlled Substances Without Medical Indication)**

3 14. Respondent is subject to disciplinary action under Health and Safety Code section
4 11154 in that he prescribed controlled substances without medical indication and to individuals
5 who were not his patients. The circumstances are as follows:

6 A. The facts and circumstances as alleged in paragraph 12, A-I, are incorporated here as
7 if fully set forth herein.

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10 **FOURTH CAUSE FOR DISCIPLINE**

11 **(Obtaining Controlled Substances by Fraud)**

12 15. Respondent is subject to disciplinary action under Health and Safety Code section
13 11173, subdivision (a)(1), in that he obtained controlled substances by fraud and deceit and/or
14 made false statements in prescriptions for controlled substances. The circumstances are as
15 follows:

16 A. The facts and circumstances as alleged in paragraph 12, A-I, are incorporated here as
17 if fully set forth herein.

18
19 **FIFTH CAUSE FOR DISCIPLINE**

20 **(Unprofessional Conduct- Dishonest Acts)**

21 16. Respondent is subject to disciplinary action under section 2234, subdivision (e), in
22 that he obtained controlled substances for individuals who were not his patients, and through
23 dishonest means. The circumstances are as follows:

24 A. The facts and circumstances as alleged in paragraph 12, A-I, are incorporated here as if
25 fully set forth herein.

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1 **SIXTH CAUSE FOR DISCIPLINE**

2 **(Failure to Maintain Adequate Records)**

3 17. Respondent is subject to disciplinary action under section 2266 in that there are no
4 medical records supporting his prescribing activities to patient #1, patient #2, patient #3 and
5 patient #4. The circumstances are as follows:

6 A. The facts and circumstances as alleged in paragraph 12, A-I, are incorporated
7 here as if fully set forth herein.

8
9 **PRAYER**

10 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
11 and that following the hearing, the Medical Board of California issue a decision:

12 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 83924,
13 issued to Ali Alexander Towfigh, M.D.;


14 2. Revoking, suspending or denying approval of Ali Alexander Towfigh, M.D.'s
15 authority to supervise physician assistants and advanced practice nurses;

16 3. Ordering Ali Alexander Towfigh, M.D., if placed on probation, to pay the Board the
17 costs of probation monitoring; and

18 4. Taking such other and further action as deemed necessary and proper.

19
20 DATED:

21 March 26, 2019


22 KIMBERLY KIRCHMEYER
23 Executive Director
24 Medical Board of California
25 Department of Consumer Affairs
26 State of California
27 Complainant

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